

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

No. 229

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**Introduced by Assembly Member Charles Calderon**

February 5, 2009

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~~An act to amend Section 23051.7 of the Revenue and Taxation Code, relating to taxation.~~ *An act to amend Section 6396 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 229, as amended, Charles Calderon. ~~Income and corporation taxes: tax computation.~~ *Sales tax: property shipped outside the state.*

*The Sales and Use Tax Law imposes a sales tax on a retailer measured by the gross receipts from the retail sale in this state of tangible personal property and a use tax on the storage, use, or other consumption of tangible personal property in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. That law provides various exemptions from those taxes, including an exemption from sales tax for a sale of tangible personal property in this state, when the contract of sale requires that property to be shipped, and it is shipped, in a specified manner, to a point outside the state.*

*Counties and cities are authorized to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and districts are authorized to impose transactions and use taxes in conformity with the Sales and Use Tax Law. Amendments to the Sales and Use Tax Law are incorporated into these taxes.*

*This bill would limit the exemption from sales tax, when the contract of sale requires that the tangible personal property to be shipped, and*

*it is shipped, to another state, to any amount in excess of the rate of the state sales tax imposed by the state of destination.*

*This bill would take effect immediately as a tax levy.*

~~Existing income tax laws provide that specified amendments to those laws do not affect the tax treatment of a carryover of a credit, excess contribution loss, or basis computation to which a taxpayer was entitled prior to the amendments.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: ~~no~~<sup>yes</sup>. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 6396 of the Revenue and Taxation Code*  
2     *is amended to read:*

3     6396. ~~There~~ (a) *There are exempted from the computation of*  
4     *the amount of the sales tax the gross receipts from the sale of*  
5     *tangible personal property which, pursuant to the contract of sale,*  
6     *is required to be shipped and is shipped to a point outside this state*  
7     *in a foreign country by the retailer by means of: (a) (1) facilities*  
8     *operated by the retailer, or (b) (2) delivery by the retailer to a*  
9     *carrier, customs broker, or forwarding agent, whether hired by the*  
10    *purchaser or not, for shipment to such out-of-state the foreign*  
11    *point.*

12    *For*

13    *(b) There are exempted from the computation of the amount of*  
14    *the sales tax any amount that is in excess of the rate of the state*  
15    *sales tax imposed by the state of destination for the gross receipts*  
16    *from the sale of tangible personal property which, pursuant to the*  
17    *contract of sale, is required to be shipped and is shipped to a point*  
18    *outside this state and in another state by the retailer by means of:*  
19    *(1) facilities operated by the retailer, or (2) delivery by the retailer*  
20    *to a carrier, customs broker, or forwarding agent, whether hired*  
21    *by the purchaser or not, for shipment to such out-of-state point.*

22    *(c) For purposes of this section, the term “carrier” shall mean*  
23    *a person or firm engaged in the business of transporting for*  
24    *compensation tangible personal property owned by other persons,*  
25    *and includes both common and contract carriers. The term*  
26    *“forwarding agent” shall mean a person or firm engaged in the*

1 business of preparing property for shipment or arranging for its  
2 shipment.

3 *SEC. 2. This act provides for a tax levy within the meaning of*  
4 *Article IV of the Constitution and shall go into immediate effect.*

5 ~~SECTION 1. Section 23051.7 of the Revenue and Taxation~~  
6 ~~Code is amended to read:~~

7 ~~23051.7. (a) The enactment of the act adding this section to~~  
8 ~~the code shall not deprive a taxpayer of a carryover of a credit,~~  
9 ~~excess contribution, or loss to which that taxpayer was entitled~~  
10 ~~under this part, including all amendments enacted prior to January~~  
11 ~~1, 1987.~~

12 ~~(b) The carryover of the credit, excess contribution, or loss shall~~  
13 ~~be allowed to be carried forward under the act adding this section~~  
14 ~~to the code for the same period of time as the taxpayer would have~~  
15 ~~been entitled to carry that item forward under prior law.~~

16 ~~(c) For purposes of applying the provisions of the act adding~~  
17 ~~this section to the code, the basis or recomputed basis of an asset~~  
18 ~~acquired prior to January 1, 1987, shall be determined under the~~  
19 ~~law at the time the asset was acquired and adjustments to basis~~  
20 ~~shall be computed as follows:~~

21 ~~(1) Any adjustments to basis for income years beginning prior~~  
22 ~~to January 1, 1987, shall be computed under applicable provisions~~  
23 ~~of this part, including all amendments enacted prior to January 1,~~  
24 ~~1987.~~

25 ~~(2) Any adjustments to basis for taxable years beginning on or~~  
26 ~~after January 1, 1987, shall be computed under the applicable~~  
27 ~~provisions of the act adding this section to the code.~~

28 ~~(d) For income years beginning on or after January 1, 1987, and~~  
29 ~~before January 1, 1988, references in this part to "alternative~~  
30 ~~minimum tax" shall be deemed to be references to the "tax on~~  
31 ~~preference income."~~